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The Role for Congress in the U.N. Reform Debate

Introduction

With the United Nations' reputation tarnished due to systemic problems and allegations of wrongdoing, consensus has developed within the international body and among its 191 Member states that it is decidedly in need of reform.¹ Nearly a dozen different reform proposals have been offered by various entities, including foreign governments, the U.S. Congress, and U.N. Secretary Kofi Annan himself. To date, however, there has been no consensus among world leaders on just what reforms should be undertaken. Annan's goal is to have the U.N. General Assembly agree to a reform proposal at the September 14-16, 2005 High Level Event in New York City, where the United Nations will be conducting a review of its development assistance efforts.

U.N. Member States are currently discussing a draft proposal (or "outcome document" as it is officially referred to by the U.N.). While the draft plan is under negotiation, it focuses very little on actual institutional reforms, but, instead, scrutinizes other items, including foreign aid and development, disarmament, the Kyoto Protocol, the International Criminal Court, and the Comprehensive Test Ban Treaty.²

The Bush Administration has its own agenda in mind for U.N. reform. In June, the U.S. State Department outlined the Administration's reform goals, labeling budget, management, and administrative changes as some of the most important institutional reforms needed. As an indication that the current proposal did not meet stated U.S. reform goals, the *Washington Post* has reported that the U.S. delegation recently offered 750 amendments to the U.N. draft "outcome document."³ And, on August 30, Ambassador John Bolton sent a 22-page letter to all U.N. Ambassadors again expressing U.S. concern over certain provisions of the current draft reform proposal.⁴

¹ For more information, see the RPC papers, "John Bolton, Kofi Annan, and U.N. Reform," which was released on April 12, 2005 and "Investigating the U.N.'s Oil-for-Food Program: Latest Findings and Recommendations," released on January 19, 2005.

² "Revised Draft Outcome Document of the High-Level Plenary Meeting of the General Assembly of September 2005," [advance unedited version], August 5, 2005, available at http://www.un.org/ga/59/hlpn_rev.2.pdf.

³ *Washington Post*, "U.S. Wants Changes in U.N. Agreement," August 25, 2005.

⁴ August 30, 2005 letter by U.S. Ambassador John Bolton to all U.N. Permanent Representatives regarding revisions to current U.N. draft reform proposal.

While the Administration has worked to assure it will be a key player in the reform effort, the question remains what role Congress will play. In the process of holding numerous hearings and debating various legislative efforts over the past couple of years, Congress has generally agreed that the world body needs to make substantive institutional changes so that it can become more efficient, accountable, and transparent. To date, however, both houses have not agreed on legislation providing the specifics. The House has acted, but the Senate has not: in June, the House passed a comprehensive reform bill (H.R. 2745) authored by Representative Henry Hyde (R-IL). This is a bill the Senate should turn to as soon as its legislative schedule permits.

The reason the Hyde bill should be seriously considered by the Senate is that it builds on a precedent established in the 1990s that provides Congress a means to directly influence the United Nations—that is, the use of the “power of the purse” provided by the Constitution.

Specifically, the Hyde bill includes the threat of withholding U.S. dues as the means to bring about significant U.N. reforms. It provides that the United States withhold 50 percent of its dues to the United Nations unless the world body undertakes a series of critical reforms (that are itemized in the bill) during the next two years. The Hyde bill molds itself on past Congressional actions that successfully used withholdings as leverage to reform the United Nations. Short of such action, Congress has no direct influence, and can only seek meaningful reforms by imploring the U.S. delegation to the U.N. to adopt its proposals.

It seems appropriate that Congress should exercise its influence during this latest round of U.N. reforms, given that the United States is the largest single budget contributor to the United Nations.

Background: The U.S. is the U.N.’s Largest Donor

Congress appropriates annually more than \$1 billion in U.S. taxpayer dollars to the United Nations. Since 1990, the United States has contributed a total of \$18.5 billion to three U.N. arenas: the U.N.’s operating (regular) budget (known as assessed or obligatory contributions); peacekeeping operations; and to a wide range of U.N. voluntary organizations.

With regard to the first account, the assessed contributions amount, the United States has been, and will likely continue to be, the U.N.’s largest single financial contributor (the U.S. contribution to the United Nations’ regular budget is approximately 22 percent, based on a fixed, negotiated rate). Japan, the U.N.’s second largest contributor, pays annual dues representing 19 percent of the budget. Rates can be renegotiated in 2006. This year’s contribution for the U.S.’s assessed contributions alone is approximately \$360 million.⁵ Since 1990, the U.S. has paid more than \$4.6 billion in assessed contributions.⁶

⁵ U.S. State Department, “Contributions to International Organizations FY 1990-2005,” received via fax from Bureau of International Organizations, August 9, 2005.

⁶ U.S. State Department, August 9, 2005.

The United States is also the largest contributor for U.N. peacekeeping operations. This year's contribution is approximately \$1.1 billion.⁷ Since 1990, the United States has paid more than \$8.5 billion in U.N. peacekeeping dues.⁸ (Because each mission must be authorized by the U.N. Security Council, where the United States has a veto, no peacekeeping mission can be approved without the express concurrence of the current U.S. administration.)

Finally, the United States is the single-largest contributor for most of the major voluntary organizations such as the U.N. Development Fund (UNDP), U.N. Children's Fund (UNICEF), International Atomic Energy Agency (IAEA), and the World Food Program (WFP), among others. In 2004, the United States contributed approximately \$330 million to the U.N. system of voluntary organizations.⁹ Since 1990, the United States has paid nearly \$5.4 billion to these voluntary organizations.¹⁰

Congress and U.N. Reform

On June 16, the House passed H.R. 2745, the Henry J. Hyde U.N. Reform Act. Representative Hyde is chairman of the House International Relations Committee, and his was the first comprehensive piece of U.N. reform legislation considered by Congress since the Oil-for-Food scandal broke in early 2004. On July 13, Senator Gordon Smith (R-OR) introduced the Hyde bill as S. 1394 in the Senate.

The essential thrust of the Hyde bill is "oversight," "accountability," and reducing bureaucracy.¹¹ The bill would require serious reform measures streamlining and prioritizing U.N. programs, and it proposes greater oversight measures and accountability of the U.N. budget, peacekeeping operations, democracy, and human rights activities. It also would mandate cuts in specific programs; redirect funds to priority areas; and would withhold 50 percent of U.S. assessed dues if 46 certifications of reform are not made by the Secretary of State within the next two years.¹² It would also withhold U.S. support for expanded and new peacekeeping missions until certain reforms addressing peacekeeping abuses are implemented.¹³ (The issue of "withholding" is discussed at length in a following section.) Some of the reforms proposed by Representative Hyde include mandating spending cuts in certain program areas, redirecting funds from 18 regularly assessed programs to voluntary contribution organizations, creating an Independent Oversight Board to conduct institutional auditing functions, and adopting an enforceable Code of Conduct for all personnel operating in a U.N. peacekeeping mission.

⁷ U.S. State Department, "Contributions for International Peacekeeping Activities—Annual Appropriations," received via fax from Bureau of International Organizations, August 4, 2005.

⁸ U.S. State Department, August 4, 2005.

⁹ U.S. State Department, "International Organizations and Programs Fifteen Year Appropriations History," received via fax from Bureau of International Organizations, August 8, 2005.

¹⁰ U.S. State Department, August 8, 2005. The \$330 million and \$5.4 billion figures do not include contributions to U.N. voluntary organizations from U.S. government organizations other than the State Department. Other U.S. government entities, such as the United States Agency for International Development (USAID), for example, also contribute funding to U.N. voluntary organizations.

¹¹ House Committee on International Relations, "Hyde Introduces U.N. Reform Legislation," May 25, 2005.

¹² *E.g.* Henry J. Hyde United Nations Reform Act of 2005 § 601(b)(1), H.R. 2745 (passed in the House on June 17, 2005).

¹³ United Nations Reform Act of 2005 § 403.

It should be underscored that the Hyde bill's certifications for U.N. action are not required until 2007 and, in some instances, not until 2008. This gives the U.S. government two to three years to persuade the United Nations to undertake reforms that are in its own best interest. The Hyde bill allows the Secretary of State (in 2007) to certify U.N. reforms that are substantially similar to or accomplish the same purposes as the requirements in the bill. A substitute amendment offered by Representative Tom Lantos (D-CA), which included nearly every Hyde provision but allowed the Secretary of State to make a determination of whether or not to withhold funds (instead of an "automatic withholding" in the Hyde bill), was defeated 216-190. The White House objected to the certification provisions in the Hyde legislation stating that the provisions "impermissibly infringe on the President's authority under the Constitution to conduct the Nation's foreign affairs."¹⁴

On June 27, Senator Norm Coleman (R-MN) introduced alternative U.N. reform legislation (S. 1383), which is cosponsored by Senator Richard Lugar (R-IN), chairman of the Senate Foreign Relations Committee. It offers a comprehensive agenda of U.N. reforms (through the use of Sense of Congress provisions), but does not require certifications by the Secretary of State on the progress of U.N. reform.¹⁵ Instead, the bill calls on the President to submit a report no later than 270 days after enactment of the bill on the extent to which the United Nations has made significant and measurable progress toward meeting the reform requirements proposed in the bill.

A notable difference between the Hyde bill and the Coleman bill is that the latter does not mandate any withholdings. The bill states that the President is authorized to withhold up to 50 percent of U.S. contributions to the United Nations if he has determined that the United Nations is not making sufficient progress to implement the reforms proposed in the bill.¹⁶ However, unlike the Hyde bill, the Coleman bill does not contain automatic withholding provisions that can be triggered if the United Nations does not undertake stated reforms.

Other Leading U.N. Reform Proposals

In addition to Congress, within the past 12 months, the U.S. Institute for Peace and the Bush Administration have either offered a major reform proposal or outlined what U.S. goals should be with regard to U.N. reform. Both documents incorporate many of Chairman Hyde's reforms.

U.S. Institute of Peace

On June 15, the U.S. Institute of Peace released the findings of its congressionally mandated Task Force on "American Interests and U.N. Reform."¹⁷ The Task Force, established by Congress in December 2004, and chaired jointly by former Speaker of the House Newt

¹⁴ Office of Management and Budget, "Statement of Administration Policy: H.R. 2745, United Nations Reform Act of 2005," June 16, 2005.

¹⁵ Congressional Research Service, "Memo: Side-by-Side Comparison of U.N. Reform Legislation," July 14, 2005.

¹⁶ CRS, July 2005.

¹⁷ U.S. Institute of Peace, June 2005.

Gingrich and former Senate Majority Leader George Mitchell, was charged with assessing the extent to which the United Nations is fulfilling the purposes stated in its Charter and with recommending an actionable agenda for the United States. The Task Force offered more than 100 recommendations. Key among them are: to affirm that “every sovereign government has a ‘responsibility to protect’ its citizens and those within its jurisdictions from genocide, mass killing, and massive sustained human rights violations”; to abolish the current U.N. Human Rights Commission, as suggested by Annan, and replace it with a “Human Rights Council ideally composed of democracies and dedicated to monitoring, promoting, and enforcing human rights”; to create a U.N. rapid reaction capability among U.N. member states that can identify and act on threats before they develop (this, however, does not mean the establishment of a standing U.N. military force); to create an “Independent Oversight Board (IOB) that would function in a manner similar to a corporate independent audit committee”; and to automatically sunset specific program mandates dating back five years or more to ensure that they are regularly evaluated and continue to perform a necessary function.¹⁸

The Bush Administration

On June 20, the State Department released a comprehensive list of U.N. reforms it is seeking to achieve. Among the reform priorities cited, the State Department noted that there must be the “highest standards of integrity,” and that efficiency within the U.N. system must be promoted “so that member states receive the greatest benefit from resources invested in the institution.”¹⁹ The State Department added that “meaningful institutional reform must include measures to improve internal oversight and accountability, to identify cost savings, and to allocate resources to high priority programs and offices.” Among other reform priorities, the State Department included supporting the adoption of the Comprehensive Convention on Terrorism (CCIT), replacing the Commission on Human Rights with a “smaller, action-oriented Human Rights Council, whose membership should not include states with a record of abuse,” and “support[ing] the Secretary-General’s idea of a Peace Building Commission that would allow the UN to be more effective in galvanizing the work of the international community to help countries after the fighting has stopped.”²⁰

On August 2, acting U.S. Permanent Representative Anne Patterson issued a statement expressing concern over the draft “outcome document.” She stated that the “U.S. is committed to a package of sweeping reforms that will change the face of the United Nations – reforms that include a new human rights and peacebuilding machinery. . . and improved U.N. management practices that bring a level of transparency and accountability that has previously been lacking.”²¹ However, she noted that the current draft “outcome document” did not adequately addresses these priorities. Additionally, she found fault with the development section of the proposal (“too long” and “does not adequately reflect the necessary partnership” between the developing world and the developed world), as well as the security section (“focuses far too much on disarmament rather than nonproliferation” and “falls well short of what the U.S. can

¹⁸ U.S. Institute of Peace, June 2005.

¹⁹ U.S. Department of State, “U.S. Priorities for a Stronger, More Effective United Nations,” June 20, 2005.

²⁰ U.S. Department of State, June 20, 2005.

²¹ Statement by Ambassador Anne W. Patterson, Deputy U.S. Permanent Representative to the United Nations, on United Nations Reform, August 2, 2005.

accept”). She added that the United States wants to “work with other countries and organizations to ensure that this document reflects real commitment to U.N. reform,” and that this should be a “true effort to transform this institution into a dynamic, successful, and valuable vehicle of international diplomacy and goodwill.”

And, as noted earlier, on August 30, Ambassador Bolton sent a letter to all U.N. Permanent Representatives stating that the United States still had concerns with the language of the draft “outcome document” regarding the development assistance provisions.

How to Achieve Reform — To Withhold or Not

Both the Hyde and Coleman bills as well as the USIP and Bush Administration recommendations, appropriately place the focus on achieving critical institutional reforms of the United Nations. The primary differences among them, however, relate to enforcement of the reforms. Neither the Bush Administration’s nor the USIP’s recommendations address how the reforms should be enforced. Senator Coleman’s bill provides for enforcement as a voluntary mechanism for the President to exercise. Representative Hyde’s bill, though, provides a mandatory remedy by forcing the United States to take certain action, i.e., withholding U.S. dues to the United Nations, if the proposed reforms are not implemented by the deadline.

For years, Congress has debated whether withholding a percentage of U.N. dues is an appropriate method for influencing the United Nations to undertake reforms. Perhaps the most basic (and strongest) argument for why “withholdings” are an appropriate means of leverage is the fact that Congress is the entity constitutionally charged with the “power of the purse,” i.e., the ability to spend the taxpayers’ dollars. If the Congress does not believe that a U.S. government agency is acting in accordance with American interests or within the framework that the agency was established, Congress may deny funding to such an agency until outstanding issues are addressed. Should the same not be applied to an international agency that is funded by U.S. tax dollars?

During the initial months following the revelation of the Oil-for-Food scandal, Members of Congress proposed an amendment withholding a certain percentage of the U.S. annual contribution to the United Nations until a certification was made by the United Nations that a series of actions had been taken, including the authorization of the release of all documents related to the Oil-for-Food program scandal and the lifting of immunity from prosecution for those found guilty of corruption and abuse.²² While the amendment was never formally considered by the Senate, the concept of withholding funding certainly had support within Congress.

Those opposed to the use of withholdings for the United Nations argue that the United States is obligated as a signatory of the U.N. Charter to pay all assessed dues agreed to by the General Assembly. They also argue that, because the United Nations operates on consensus, it is very difficult to undertake major reforms and, thus, U.S. expectations should be tempered. Finally, the opponents argue that withholding dues hurts the United States because it puts

²² United Nations Reform Act of 2005 § 104(g).

America in arrears with the institution and brews resentment among the other Member States that consistently pay their own dues.

It should be noted that Republicans are split on the use of withholdings. During recent floor debate on the Hyde bill, Representatives Hyde and Mike Pence (R-IN) were advocates for using withholdings as a tool to bring about reforms at the United Nations. But, in a letter signed by six former U.S. Ambassadors to the United Nations (including Republicans Jeane Kirkpatrick and John Danforth) released during debate on the Hyde bill, the signatories argued against using withholdings.²³ In its Statement of Administration Policy on the Hyde bill, the White House stated it has “serious concerns” about the withholdings provisions.²⁴ And, in testimony before the Senate Foreign Relations Committee a month after the Hyde bill passed in the House, Newt Gingrich, former Speaker of the House and USIP Task Force chairman, argued that withholdings should only be used as a last resort.²⁵ However, the “last resort” option appears to be consistent with the Hyde legislation since the bill allows two to three years for the United Nations to implement reforms.

Past Congressional Success Using Withholdings Threat

There is some significant history of causing U.N. reform with a threat of U.S. withholdings, including three instances since the 1980s in which, arguably, the threat of withholding (or actual withholding) of U.S. dues has led to significant U.N. reforms.²⁶ In 1985, Senator Nancy Kassebaum (R-KS) introduced legislation calling for a reduction in U.S. contributions to the United Nations and its affiliated agencies unless the organizations adopted a “weighted voting” system on U.N. budgetary matters.²⁷ The legislation called for a cap of no more than 20 percent of the U.S. contribution for the United Nations and its agencies that did not adopt a more proportionate voting system. The legislation, which in the end was an amendment to the FY 1986-87 State Department appropriations bill, was signed into law in 1985.²⁸ Because of this Congressional action, the United Nations eventually adopted consensus-based budgeting procedures.

In 1993, Congress included in the FY1994 appropriations legislation a provision making 10 percent of funds appropriated for U.S. assessed contributions to the United Nations available only upon a certification to Congress by the Secretary of State that the United Nations had established an independent office with responsibilities and powers similar to that of an inspector general.²⁹ As a result of additional Senate action, the withholding was increased to 20 percent in FY1995 along with a 50-percent withholding of supplemental peacekeeping contributions. On August 24, 1994, the U.N. General Assembly approved the appointment of an individual to head the Office of Independent Oversight Services (OIOS).

²³ Better World Campaign, “Eight Former U.S. Ambassadors Urge Congress Not To Withhold U.N. Dues Ad Campaign Explains Why Legislation Counter-Productive to UN Reform,” June 14, 2005.

²⁴ Office of Management and Budget, “Statement of Administration Policy: H.R. 2745, United Nations Reform Act of 2005,” June 16, 2005.

²⁵ Newt Gingrich in testimony by before the Senate Foreign Relations Committee, July 21, 2005.

²⁶ Congressional Research Service, “Memorandum: Congressional Withholding of U.N. Dues,” May 23, 2005.

²⁷ CRS, May 2005.

²⁸ Foreign Relations Authorization Act for Fiscal Years 1986 & 1987, Public L. No. 99-93, 99 Stat. 405 (1985).

²⁹ CRS, May 2005.

Congress has also used the occasion of negotiating to pay arrearages to negotiate reforms. For example, in 1999, Senator Jesse Helms (R-NC) authored legislation (that President Bill Clinton signed into law) to reduce U.S. assessment rates and establish a ceiling for U.S. peacekeeping contributions as well as force the United Nations to undertake some major reforms, including greater transparency and clearer budgetary procedures.³⁰ In December 2000, the U.N. General Assembly agreed to a financial restructuring of both the regular and peacekeeping assessments. The Helms legislation demonstrates that Congress' use of the power of the purse (to pay U.S. arrears contingent upon the United Nations undertaking necessary reforms) can be effective.

Conclusion

The present debate over U.N. reform has benefited greatly from the various reviews and recommendations made by Representative Hyde, Senator Coleman, USIP, and the Bush Administration. Collectively, their efforts have arguably demonstrated the importance the United States places on the United Nations and the seriousness by which the world body needs to be reformed.

Given the legislative schedule this month, it is unlikely that Congress can affect the "outcome document" before the U.N. General Assembly agrees on a formal reform plan. Nevertheless, Congress should strongly consider the Hyde bill, its Senate companion introduced by Senator Smith, or some similar measure at the earliest possible date. The Hyde bill's reforms are similar to the Administration's, and it uses the historically successful model of the threat of withholdings to achieve U.N. reform. While some argue that the threat of withholding does more harm than good, the undeniable fact is that previous withholding threats by Congress have served as the catalyst to massive reforms being undertaken at the United Nations. Moreover, given that the United States is the single largest contributor to the United Nations (and Congress has the power of appropriation), it is not an unreasonable tactic to employ as a means to insist that American taxpayers' interests are taken into account and that U.S. foreign policy interests are advanced.

³⁰ CRS, May 2005.